
The Blind and Social Security

A Collection of Addresses, Letters and
Other Documents Published By the

National Federation of the Blind

1944

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AMERICAN FOUNDATION
FOR THE BLIND INC.

THE BLIND AND SOCIAL SECURITY

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and other documents published by the
National Federation of the Blind

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HAVE OUR BLIND SOCIAL SECURITY

An Address By
Jacobus tenBroek, J. S. D.
Instructor
University of Chicago Law School
Delivered at the
Fifth
Annual Convention
of the
Penna. Federation of the Blind
1940
* * * *

INTRODUCTION

By-
Gayle Burlingame, Editor
"We, The Blind"

In all the proceedings to follow in our convention there should be no deviation from the established principle that it would not only be impracticable but foolish for our blind to request any change in the present blind pension system of Pennsylvania at the next session of the legislature unless and until Federal aid is made available for the blind in this State. It is now being denied because in Pennsylvania, in addition to their grants our blind are permitted to earn a little, own a little, accept a little, without jeopardising the amount of their grants or their rights to them.

In 42 other States of the Union, some of whom are represented here tonight, Federal aid is being granted but upon conditions which are quite frankly detestable.

Recently we reviewed in an issue of "We, the Blind" the new pension law for the blind of California, stating that California receives Federal aid for its blind. Our statement at that time was true. We have learned tonight directly from the representative who is here present from California, that the Federal aid now being granted to the blind in his state is to be denied in the future, unless that state too subscribes to the proposition of the Social Security Board that the blind must not be permitted to earn a little, own a little and accept a little without a corresponding reduction in the amount of the pauper's relief granted them.

Four great states, California, Illinois, Missouri and Pennsylvania, do not now, or will not receive Federal aid for their blind because these states hold that the gloom, despair and despondency forced by the Federal Social Security Board upon the blind of other states shall not be forced upon their own blind.

The earnings of a blind person at most are meager. Seven hundred sixty-five out of every thousand blind persons in Pennsylvania have absolutely no income or earnings whatsoever excepting their modest pension check. In nine hundred and thirty-five cases the highest income exclusive of the pension check

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does not exceed thirty dollars per month. Only five out of every one thousand have a total income of the maximum amount allowed of \$1200 per year which includes their pension grant, and yet of these lonely five, three receive their income from some subsidized charity or government source.

The aim and goal of our State Federation has always been a fifty dollar monthly grant to our blind. We have not lost sight nor are we ever lose sight of that goal. To attain that goal, however, we must be practical and because I believe we are practical we realize that we must now turn to the Federal Government to make our object of \$50 per month pension come true. When Federal aid is available in Pennsylvania, dollar for dollar, then only can we secure an adequate grant. We are met here largely to accomplish that purpose. With the co-operation of the blind of other states, we are going to form a national federation of the blind whose definite object and aim is to secure an adequate grant to every blind person in these United States and to proclaim the inherent right of every good American to retain his self-respect and dignity, no matter how physically handicapped, by being a useful citizen in his community. That most definitely means, and I repeat it to you over and over again, the right to earn a little, own a little and accept a little.

-ADDRESS BY DR. TENBROEK-

Five years ago, in 1935, the Congress of the United States passed and the President of the United States signed what was widely regarded as the most progressive and humanitarian social legislation since the Thirteenth Amendment to the Constitution emancipated the slaves. Two years later, in 1937, the Supreme Court of the United States sustained this enactment against a charge of constitutional invalidity. Because the primary aim of this liberal legislation was security against certain of the major social and economic hazards of life, it was called the Social Security Act. It aspired to nothing less than protection against the pennilessness of unemployment, security against the destitution of age, and mitigation of the desolation of blindness. In its passage, the worker found release from apprehension, the aged found physical comfort, and the blind found hope.

After five years of experience with the Social Security Act, what has become of these lofty purposes that were thus expressed by the nation's Legislature, approved by its Chief Executive, and sanctified by its highest Court?

Ladies and gentlemen, I come before you tonight, in the first place, to say that so far as the blind are concerned the Social Security Act has not only failed to attain its plainly expressed goals but it has been used as a weapon to compel the states to treat their blind in a more niggardly fashion; and I come before you in the second place to proclaim to the wide world that the reason for this failure and the wielder of this weapon against us has been the Social Security Board at Washington. Proceeding in profound ignorance of the problems of the class with which it has dealt, moved by an intolerable authoritarian arrogance, the Social Security Board at Washington has constituted itself a supreme tribunal to judge whether the states are treating their blind badly enough. If they are not, these administrative despots in the nation's Capitol apply compulsion by way of open threat and subversive action. So damaging have the activities of this Board become that it represents the greatest single menace to the welfare of the blind now in existence. Our salvation depends upon our ability to confine its operations within the limits of the law. Its unauthorized exercise of discretionary power must be terminated. This can only be accomplished by a militant, aggressive, group conscious national organization of the blind. By this means we may diminish the Board's arrogance if we cannot reduce its ignorance.

To speak now more particularly, I levy three specific charges against the Social Security Board at Washington: First, it has unlawfully arrogated to itself the power to define the expression "needy individuals who are blind" as used in the Social Security Act; second, having illegally usurped this power, the Social Security Board has exercised it in a narrow, restrictive and untenable way; third, the Social Security Board has arbitrarily, unlawfully and oppressively insisted that the states, in order to gain or retain federal participation in their plans for aid to the blind, must determine need on an individual basis and not on a basis of legislatively fixed general standards.

(1)--The illegality of the Board's assumed power to define the expression "needy individuals who are blind" in the Social Security Act can easily be demonstrated by a resort to the Congressional record. Title X of the Social Security Act which deals with the blind was amended into the Act by the Senate Finance Committee of which Senator Harrison was chairman. The report of the committee to the Senate and the statements of this chairman when introducing the Act were very emphatic as to the location of the authority to define the term "needy individuals who are blind." Senator Harrison said, "We have laid down the conditions (in the Act) . . . and we leave to the States to say who shall be the persons selected to receive the federal assistance." As if to place the matter beyond all controversy or doubt as to the intention of Congress, Chairman Harrison made the following carefully worded statement: "It must be recalled that when this proposal was first made to the Senate Finance Committee it gave much more power to officials in Washington, so far as pensions were concerned. The authorities were to pass on state plans with respect to amount of pensions, who should get pensions and so forth . . . but we subsequently effected a complete change. I know it was the opinion of the Committee on finance that the whole order should be changed and that the authority should be vested in the States . . ." It is hard to imagine how the power of speech could be more accurately employed in describing what was within the mind of Congress.

Equally forceful is the procedural history. Under Section 1002(a) of that Act a state plan for the blind must, in order to gain participation by the Federal Government, provide for seven specifically set forth conditions. In the Senate, Senator Wagner moved to amend Section 1001(a) by adding two additional requirements which must be present in a state plan if it is to have federal approval. They were, "(8) provide that money payments to any permanently blind individual will be granted in direct proportion to his need; and (9) contain a definition of needy individuals which will meet the approval of the Social Security Board." The amendments were accepted by the Senate without discussion. However, when the Social Security Act reached the conference committee of the House and Senate for a resolution of their differences, these amendments were stricken out at the insistence of the House and the Senatorial conferees readily concurred in the omission when attention was called to their significance. It is possible that anything more illuminating could have been done? This procedural history indicates that amendments were framed and proposed for the purpose of compelling states to provide a definition of need which was satisfactory to the Social Security Board and upon reflection these amendments were deliberately withdrawn from the Act. Hence it is not possible to have any doubt that Congress intended that the Social Security Board should not have the specific power which it now claims.

(2)--The definition of a needy blind person which the Social Security Board has foisted upon a number of reluctant states and upon the outraged blind of the nation has been that he is one who lacks the physical necessities of life, one whose needs will be satisfied by the provision of a bare animal mini-

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mum in food, shelter and clothes. Thus, according to the Social Security Board a needy blind person is one whose need is the same as that of paupers, indigents, and the aged for concerning these latter the State intends only to relieve material poverty.

This definition must be rejected by anyone having even the slightest acquaintance with the needs of the blind. A needy blind person has a greater need than paupers, indigents and the aged, because there are additional elements comprising it. Besides the physical necessities of life, his need consists in some fair utilization of his productive capacity. This can only be obtained by restoring him to economic competence in a competitive world. Without it his need will never have been terminated. With it he is a normal, useful, self-respecting citizen. Hence his need is as broad as the effects of his blindness. It can only be met by a rehabilitation that is social, economic and psychological and these are the objectives within the intentions of the legislatures of many of our states in their statutory schemes providing aid to the blind.

In order that the blind recipients of aid may enlarge their economic opportunities any may be rehabilitated into independent livelihood these statutory schemes provide that the blind may possess a certain amount of tangible and intangible assets and may accumulate a certain amount of earnings without penalty. These statutory schemes recognize that one of the purposes of aid to needy blind persons is to remove them from the class of needy blind persons and one of the means of enabling them to so remove themselves is to permit them a reasonable sum of personal property. They acknowledge that this in the last analysis, must be the distinction between aid and relief. These state plans were well designed and deliberately worked out to fulfill the demands of these comprehensive purposes. That a cry should now be heard from Washington that these plans should be dedicated to less than this is only explained by the famous remark of Justice Brandeis about the zealots who even if well meaning are without understanding.

(3)--In providing that needy blind persons should be afforded financial assistance two courses were open to the legislatures of the states: They might have left the welfare departments to determine who were needy persons within the meaning of the word "needy" as generally used, or the legislature might have defined the word "needy" with particularity, setting up definite tests, and leaving the welfare authorities no function but to determine whether each particular applicant complied with those tests. As between these two alternatives some of the legislatures had no real choice in view of the extensive rehabilitative objectives they wished to accomplish. If these were to be realized it was apparent to the legislatures that a system would have to be created in which there was a minimum of administrative interference with the conduct and funds of the recipients. Administrative personnel, whether by reasons of training or native ineptitude, was notoriously considered to be unqualified as discretionary agents in such matters. Furthermore, if the blind were to be given a chance to enlarge their economic opportunities

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and if their efforts to render themselves self-supporting were to mean anything, they would have to be given complete freedom of choice as to the direction of the rehabilitative effort, and entire flexibility within prescribed limits, as to their economic arrangements and position.

Accordingly, the legislatures of such states as Pennsylvania, Illinois and California set up in the aid statutes themselves a complete system of standards on the crucial issue of what need is and what blind persons should receive assistance. Thus, under these statutes, the sole function of the welfare authorities is to find out whether an applicant falls within the categories specified by the legislatures. Senator Wagner's proposed amendment (8) would have given the Board some discretionary power to determine whether the state plan made payments in direct proportion to the blind person's need and that amendment was also stricken out. The fact of this deliberate omission is proof of the absolute intention of Congress to leave the matter as to who was needy and as to what blind persons should receive assistance to the judgment of the states. It is further proof that Congress intended that the judgment of the states in that matter should be so free that it could set up a statutory system with a complete set of standards for the payment of aid and thus obviate the fettering restrictions of a social service budgetary system which would interfere with rehabilitative efforts. It is proof that state plans in order to gain Social Security Board approval do not have to grant aid to blind persons in direct proportion to their need and may make flat payments to all persons who come within the classification. Consequently, the expressed attitude of the Social Security Board that it may refuse to approve state plans because they grant aid not in accordance with individual need is utterly and palpably untenable, and is an assumption of the power which Congress, by omitting the proposed amendment (8), specifically aimed to prevent.

In this discussion, I have concentrated attention chiefly upon the Social Security Act and the Social Security Board's interpretation of it. I have done so because that subject represents one of the primary problems now confronting the blind and because that subject shows, in an acute form, the need for unified action and national organization on the part of the blind. It is a problem of vital importance both to those states now receiving federal funds and to those which have been denied the participation of the federal government. It is not a problem that can be handled by one state or by a small group of states. All the blind in all the states must combine and concentrate their energies upon it in order to reach a workable and satisfactory solution.

Another reason for spending so much time and attention upon the Social Security Act and the Social Security Board's interpretation of it is that that subject points to a number of other problems that are common to the blind throughout the nation. The proper definition of blind persons who should receive state assistance is one such problem; the proper type of standards to be set up in the state statutory schemes is a second; the proper function and place of the social worker in the administration of

the state and national legislation is still a third. Finally, the whole idea of a national pension or annuity is involved in this discussion. The problems arising in connection with the administration of the Social Security Act will undoubtedly recur in connection with the administration of a national pension when that is obtained. It is important for us to build up a national body of common and transmissible experience upon these subjects in order to avoid the errors of the past and make secure our future. Upon all of these problems it is necessary for the blind to organize themselves and their ideas upon a national basis, so that blind men the nation over may live in physical comfort, social dignity, and spiritual self-respect.

THE SOCIAL SECURITY BOARD AGAINST THE BLIND

An Open Letter to Congressman
(Bakersfield, California, March, 1942)

by

R. W. Henderson, Esq.

Chief Counsel

California Counsel for the Blind
and Member of Legal Committee
National Federation of the Blind

Dear Congressman:

I learned from the press that a considerable overhaul of the Federal Social Security Act may be expected. Blind of this country hope that Section 10, dealing with aid to the needy blind, may not be overlooked. It seems to us that Mr. Paul V. McNutt, Mr. Oscar M. Powell, and their associates in the Social Security office have managed to place upon this section a construction contrary to what we believe was intended by the Congress, and one which nullifies the desires of several State legislatures and defeats the hope of the blind. These gentlemen, and their fellow bureaucrats, have taken the position that all income from property owned by recipients and all earnings of recipients should be deducted from grants to the needy blind. The blind themselves insist that they should be allowed to earn by their labor, or to receive as return from property owned by them a fixed minimum before any deduction from their state or federal aid should be made.

Blindness is a fearful handicap in the struggle for life. Only a few of us have been fortunate enough to achieve economic independence with no public assistance beyond a free education. The vast majority of blind men and women need some public assistance to make up in a small measure for the loss of that faculty which through no fault of their own has been taken from them.

The public generally is quite willing to see such assistance granted out of public funds and the Congress in enacting Section 10 of the Social Security Act has recognized this need. It cannot be expected nor have the blind asked that the public should provide them with sufficient funds to maintain what is considered a decent American standard of living. Any grants which they may expect will of itself scarcely get beyond providing for the most elementary creature comforts--what may be described as animal needs. However, blind men and women are human beings.

The blind poet in his declining years may have been content to "only stand and wait". Those to whom blindness has come, associated with old age may be satisfied to sit still while the deepening shadows lengthen. But those blind who are still in the vigor of manhood and womanhood insist upon being part of life's struggle. Handicapped they are, but in the race they must run. To some measure the Congress and the legislature and the public are willing to consider that handicap. Mr. McNutt and Mr. Powell, and their professional associates, take the position that the blind should not be allowed to run in the race; that in addition to nature's handicap the social workers profession should place hobbles upon the blind.

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Let me illustrate this. In the day shops for the blind throughout the country there are some thousands of workers. On the whole their production is low and wages are small. Very often they are unable to earn more by their labor than they could receive as a public grant. Now, if you deduct, as Mr. McNutt and Mr. Powell insist that you must deduct, the earnings of these people from any public grant, you make it as profitable for them to sit in idleness as to labor.

Kipling sang of "All for the joy of working," but that was about a distant hereafter. You cannot expect blind men and women to work for nothing. You must give them some incentive and the Social Security Board would take this incentive away from them.

There are perhaps thousands of blind women throughout the country engaged in handicrafts in their own homes. Their products are sold by various public and private agencies. Their situation is the same as the workers in day shops of whom I have already spoken.

I call to mind two scholarly blind men who live in a university town. They earn a little money by private tutoring. As examination periods approach their work naturally increases. These men are some day hoping to find a place in the teaching profession but they have not yet found regular employment. The Social Security Board insists that their modest earnings must be deducted from their public grant or they must do this tutoring for nothing. These men realize that they are handicapped--they are willing to accept small earning--but they live happy, hopeful and somewhat useful lives.

I know a blind man who makes about \$300 a year tuning pianos. He is a good piano tuner but there are not many pianos to be tuned in his town. He hopes through the connections he builds up while carrying on this little tuning business, to be able to go into the business of selling musical instruments. Maybe he will succeed in this ambition, maybe he will not, but if his state aid is cut by the amount he earns his ambition will perish and his life will become hopeless.

In the suburbs of one of our California cities there lives a blind man who is almost a mechanical genius. Obviously he cannot get a job at any mechanical trade. From time to time his neighbors employ him to assist them in repairing their automobiles. I have talked with his neighbors and they tell me that he is of real assistance and that he more than earns the few dollars they pay him. The Social Security people insist that his earnings must be deducted from his grant or that he must work for nothing.

I know a blind woman whose speed and accuracy at braille shorthand, at typewriting, and at mimeographing, are a little short of marvelous. She has never been able to get employment in a business office. She is trying to build up a little business of her own. She contacts business men and others who desire to send out mimeographed circulars. She takes down dictation in braille shorthand, transcribes it onto a stencil and runs it through her mimeograph machine. It takes time for her to

convince clients that a blind woman can actually turn out their work satisfactorily. She receives state aid. If we did not have a special law in California for partially self-supporting blind, under which no Federal contributions are received, this woman would be faced by this same choice--the choice between working for nothing or having her earnings deducted from her public grant. By adding her small savings to her state grant she is building up a little business. In a few months or perhaps a few years she will have an independent business. She will be completely self-supporting and will no longer need public assistance--all of this because the California Legislature was generous and intelligent enough to pass a law for the benefit of some of its blind people without accepting Federal aid. The blind of California are fortunate that a few of them are able to escape from the grinding bureaucracy of the Social Security Board at Washington.

These are but a few examples. I could fill a book with illustrations--broom makers, salesmen, musicians, and others--all of them personally known to me. I want you to see, Mr. Congressman, and I want your fellow Congressmen to see just what this thing means. The present interpretation of Title 10 of the Social Security Act means inactivity and hopelessness--I had almost said death--to thousands of blind men and women throughout this country. A modification of that title which would permit blind recipients of aid to receive from property owned by them or to earn by their labor a certain amount of money without considering that amount in making the grant, would enable these men and women to be happy, hopeful, useful members of society. Some of them would probably continue to receive the grant for the rest of their lives. Others, because of the grants and because of the money they earn would become independent and self-supporting. I know of scores of blind men and women in California, who, because they have received public assistance, have finally been able to achieve economic independence. In many cases under our liberal laws this has been possible, because in addition to their public grant these men were able to increase their income from their own earnings until they no longer needed public assistance. If the policy adopted by the Social Security Board had been in effect in California, it would have been impossible for these men to climb to a position of economic independence.

It is not pleasant to accuse responsible public officials of deliberate cruelty and insensate stupidity and yet, such at least, is the inevitable result of the conduct in which they persist. We know that many sacrifices have to be made. We know that many things must be suspended for the duration and yet, in a conflict to preserve the ideals of humanity it is not easy to understand why the needs of an unfortunate and handicapped group should be coldly and deliberately disregarded.

Yours truly,

R. W. Henderson, Chief Counsel
California Council for the Blind
Member of Legal Committee
National Federation of the Blind.

SOCIAL INSECURITY

The Preamble of the Social Security Act passed by Congress on August 14, 1935 enumerated its high objectives in the following language: "An Act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several states to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes."

Our blind people assumed that all administrative rulings to be made in pursuance thereof by the all-powerful Bureaus and Boards in Washington would be largely controlled in spirit and in fact by the lofty purposes and objectives therein set forth.

Since the Act has been in operation for six years, it is our specific purpose to examine the manner in which Title X of the Social Security Act has been administered in order to see whether or not the 'Preamble's' lofty objectives are being in fact achieved for the blind.

In order to obtain a consensus of opinion among the well-trained blind thoroughly familiar with the present and past conditions of our people it was necessary to initiate our inquiry by first securing their candid uncolored statements. Opinions have been obtained which are not predicated on the benign or malignant requirements needed to hold a state or federal job or to retain personal benefits flowing from private concessions and state or federal remunerations. The writer and his associates have benefited greatly by these queries made directly to many individuals as well as to assembled organizations and conventions. Although the limits of this article do not permit the giving of every finite detail in the composite mural thus portrayed, we shall endeavor to sketch the major features thereof so that the reader may obtain a clear picture of the problem. At the threshold of our portrayal we must recite a few of the longstanding abuses which many of the blind thought Title X of the Social Security Act would help to erase.

In most of the states where assistance to the blind is given, it has been and still is traditionally required that an applicant take the pauper's oath. After an application had been so ingloriously initiated with blushing shame, provided all other requirements had been met, it is usually filed until such time as the local fund would permit its allowance. When funds are not available, the local administrators of blind assistance enter into 'gentlemen agreements' which arbitrarily withhold payment by the technique of filing the application for consideration later. This technique is employed even when the state laws make it mandatory upon the officials to forthwith grant blind assistance once a showing has been made by the applicant that he is entitled thereto. Thus it is that after applicants have been found to be wholly destitute and without any visible means of support, many cases, by this means, are delayed one to four years before assistance is finally granted. In this manner, the will of the people,

as expressed through their sovereign legislatures and executives has been constantly overridden by petty local officials. In addition, after blind assistance is finally obtained by an applicant, every cent of income or benefit received by him from whatever source derived must be strictly accounted for so that the administrators may make deductions from the blind pensioner's state or county allowance in proportion to what is deemed by them to be its monetary value. In order to carry out their objective, local officials have many petticoated investigators, who constantly shove their long, cold facial extremities into every blind person's affairs in order to see whether or not some flight benefit has not been reported. When it is realized that in most states the blind pension cannot exceed \$30.00 per month and in fact averages in the respective states between \$23.00 down to nothing, the penuriousness of these lovely ladies is at once manifest. To make their inquiries even more obnoxious, they oft-times bring pressure upon members of a blind person's family to grant free room, board or some other benefit so that they may make a good record in the reduction of their beloved budget from which blind pensions are paid. Good showings in this regard advance social workers professionally. This is done although they know full well that a promise exacted from relatives is seldom kept faithfully and at best never graciously. The intense hatred for the professional social worker has thus been deeply instilled. Their salaries, office expenses and travel allowances collected in the name of the blind are thoroughly resented. Our people have reason to feel that sighted social workers, as a class, fight for the preservation of this system because it creates many jobs which their abilities enable them to fill. The blind, therefore, have for decades fought against formidable professional opposition to have the hated pauper's oath abolished in spirit and in fact. The blind know that in most instances they have been deprived of their sight because of dangers and hazards created by other persons or society as a whole. The blind do not bemoan the fact that they are the ones upon whom blindness has been so imposed; they do not mind absorbing the major portion of the losses resulting from blindness. It is their thought however, that society should graciously absorb a small fraction of the economic loss which blindness has engendered. The public wishes to perform its duty to the blind with good grace and dignity. Professional opposition constantly thwarts that wish. For this reason, the power of the social workers to continue their violation of all psychological and sociological laws of rehabilitation, whether spiritual or economic, must be curbed. Furthermore the only kind of social worker which the blind want supported in their name is the one trained and required to place all emphasis and effort on genuine rehabilitation. The excellent legal training obtained by many of the blind should make them invaluable as executives and administrators of blind affairs both state and national. The Chief of the Rehabilitation Service causes Civil Service examinations to be drawn so as to block the employment of their talents.

Paul V. McNutt, the present Administrator of the Social Security Administration, claims credit for the present blind legislation now in effect in Indiana. When examined both in

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every blind person's affairs in order to see whether or not some
flight benefit has not been reported. When it is realized that
in most states the blind pension cannot exceed \$30.00 per month
and in fact averages in the respective states between \$25.00
down to nothing the parsimoniousness of these lovely ladies is
once manifest. To see their indulgence even more obvious,
they at times bring pressure upon members of a blind person's
family to grant live room, food or some other benefit so that
they may make a good record in the reduction of their beloved
budget from which blind pensions are paid. Good showings in
this regard where social workers professionally. This is done
although they know full well that a person's record from relatives
is seldom kept reliably and is best a mere guesswork. The
intense hatred for the professional social worker has been
deeply ingrained. Their salaries, office expenses and travel
allowances are paid in the name of the blind and thoroughly
resented. Our people have reason to feel that sighted social
workers, as a class, fight for the preservation of this system
because it creates many jobs which their relatives enable them
to fill. The social workers have for decades fought against
local professional opposition to have the blind pension's
cost abolished in spirit and in fact. The blind know that in
most instances they have been deprived of their right because
of dangers and hazards created by other persons or society as
a whole. The blind do not know the fact that they are the
ones upon whom blindness has been imposed; they do not know
supporting the major portion of the losses resulting from blind-
ness. It is their thought however, that society should
gradually bear a small fraction of the economic loss which
blindness has engendered. The public wishes to perform its duty
to the blind with good grace and dignity. Professional opposi-
tion constantly thwarts that wish. For this reason, the power
of the social workers to continue their violation of all psycho-
logical and social laws of rehabilitation, whether spiritual
or economic, must be curbed. Furthermore the only kind of social
worker which the blind want is one in their name is the one
trained and required to place all emphasis and effort on
rehabilitation. The excellent legal training obtained by many
of the blind would make them invaluable as executives and
administrators of blind affairs both state and national. The
Federal Rehabilitation Service Census Civil Service exam-
ination is held so as to block the employment of their

present Administrator of the Federal
Rehabilitation Service for the present blind
When examined both in

word and in deed, all the evils above recited are present therein with a vengeance. To us, his words of sympathy for the blind sound hollow. Not wishing, however, to rest our case wholly upon the situation created in Indiana--Gayle Burlingame, Executive Director of the State Council for the Blind, State Department of Welfare, Pennsylvania and Dr. Jacobus tenBroek of the University of Chicago Law School and President of the National Federation of the Blind, with the latter's wife acting as their guide, in March of 1941, called upon Mr. McNutt. It was hoped that he might be persuaded not to induce the creation of the Indiana situation on a national scale.

This interview was open by their saying that they wished to talk about the ruling of the Social Security Board under which it had held that states, in order to secure the federal contribution to their plans for aid to the blind, must provide for a reduction in the amount of aid granted to any recipient by the amount of his earnings. They were immediately confronted by Mr. McNutt's stating that he didn't see why aid grants should not be reduced by the amount of the recipient's earnings. The drastic effects of this policy upon the outlook of the blind were then pointed out. In short, these effects were stated to be that it made economic rehabilitation impossible; that it prevents psychological readjustment and spiritual rehabilitation because it closes the doors of self-made opportunity; that it encourages indolence and idleness; that it condemns the blind as a class to a permanent future on the relief roll. Although this interview lasted forty-five minutes, Mr. McNutt was silent save for an occasional reiteration of his stand that a blind aid recipient should not be permitted to retain his earnings no matter how small those earnings were or how great the earner's need.

Our committee, after pointing out to him that this matter vitally concerned the blind of the nation and that the blind had a right to know the reasoning and bases underlying his conclusion, asked for an explanation. The query was curtly met by Mr. McNutt's declaring that it was his business as an administrator to administer the Social Security Act; it was not part of his job to explain his conduct or to disclose the reasons which led him to the conclusion he had reached.

Inasmuch as Mr. McNutt had remained seated at his desk upon our Committee's initial entrance into his office, as well as throughout the entire interview without any attempt to aid their sighted guide in maneuvering or seating our two blind representatives, his complacent coldness and slight grin left a very unfavorable impression. In order to jar Mr. McNutt out of his complacency, our representative informed him that he could unquestionably throw them out and that it should not have been difficult for him to reach his conclusion since he had apparently started with it. Mr. McNutt, of course, met this jibe by stating that it was unfair, although no effort was made by him throughout the interview to reveal the facts which he professed to know. When asked whether or not he would have any objection to the introduction of amendments to the Social Security Act into Congress, he answered that he would have no objection but

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that on Social Security matters the committees of Congress would call him to testify and would unquestionably follow his judgment. The Committee then argued that if he was legislator as well as administrator they certainly had a right to know the reasons underlying his policy determinations. He still declined to give them.

When these queries bore no fruit, our Committee next raised objections to the practice of the agents of the Social Security Board by which they secretly and subversively induce changes in state legislative and administrative rulings without coming out in the open so that the blind themselves might meet their arguments. Mr. McNutt was informed that it was futile to complain about this practice to lesser officials and that they would like to have higher officials do something about it.

The only words of condolence obtained from Mr. McNutt were his blank assertion that he was not unsympathetic with the blind. To prove his point, he stated that he had given the blind of Indiana their aid law. This boast of course incriminates him in the eyes of the blind as nothing else could.

Color was given to the entire interview when one of the boys noted the number of doors through which they passed before reaching Mr. McNutt's office. Mr. McNutt agreed they were numerous but averred that there weren't enough of them. Dr. tenBroek parried McNutt's rejoinder by asking him if he meant there weren't enough to keep the people out. Mr. McNutt curtly replied, "That's exactly what I mean." Our Committee reports that throughout the interview McNutt's manner was haughty, arrogant and studiously uncivil. They state he laid emphasis to this impression by failing to grasp their outstretched hand when they offered it in friendship. So we have a picture of a man who in public professes to fight for the rights of the blind, yet in private where there are none to cheer or votes to get, we see him as he is.

When Mr. McNutt voices his sentiments from the platform or over the radio they are resented. We feel that he has been dealing from the bottom of the deck. Since his appointment by President Roosevelt as Administrator of the Social Security Administration, he has been in complete sympathy with the Social Security Board which emulates the vicious practices so ably initiated by him in Indiana. The rulings of the Social Security Board in pursuance of this spirit have converted Title X into a national tyranny superimposed upon and fostering ancient local abuses. The struggle of the blind for justice has thereby been made infinitely more difficult than before the enactment of Title X.

The word 'need' as it initially appeared in Title X as well as in the amendments sponsored by Mr. McNutt or his underlings has been interpreted so as to encompass all the professional social workers' hidebound concepts breathed into the word by professional moralists over the centuries. The presence of the word 'need' in the Act enables the Social Security Board to refuse to approve state plans which violate its hide-bound ideas. In other instances, its emissaries, dutifully following Mr. McNutt's position, threaten the withdrawal of federal aid from

existing state plans unless they are modified in strict accordance with the Social Security Board's dictates. Furthermore, the efforts of the blind to ameliorate harsh terms existing in state legislation or to legislatively inaugurate new socially sound state plans oftentimes are sabotaged by a "Social Security Board" emissary with a whisper that federal approval will not be forthcoming when passed. So we have a spectacle of democracy in action as envisaged by those interested in the political, economic and social power of their Bureaus, Departments and Divisions. The Social Security Board is now building up in the name of the blind a vast army of state and federal officials, the chief function of which seems to be to see to it that the blind in no instance receive one penny more than is necessary to keep body and soul together. This is subsistence in its lowest terms. Freedom from fear is meant for others. How can anyone but a bigot pursue such a policy and at the same time in eloquent language profess an endeavor to rehabilitate and lift our people to independence and self-respect.

Every American citizen must be warned about the fate in store for him if, while engaged in the creation of the nation's wealth, he is suddenly blinded. His family and children will drink deep from his bitter cup. His depreciated earning power will not be supplemented by a partial socialization of its shrinkage. Only by the living of an idle, indolent, discouraged existence is a blind man rewarded with a pension. If his wife works, her noble effort will be rewarded by a curt refusal to grant her blinded husband a pension.

The above thorough emasculation of Title X of the Social Security Act does not seem to have satisfied the respective Powers That Be. In 1938 an organization was incorporated in Washington, D. C., entitled THE NATIONAL SOCIETY FOR THE BLIND, INCORPORATED. By devious contracts and sundry arrangements this corporation is bringing about the installation of vending machines in Government buildings throughout the country. Although itself ostensible philanthropic, it enters into contracts with a certain Chicago Vending Machine Company which requires the latter to pay the former a given percentage of gross receipts. The National Society for the Blind shares its cut with various state agencies which it alone approves. Inasmuch as the National Society for the Blind, Inc., avows and intention not to approve any state agency upon which the Powers That Be in Washington manifest a dislike, the close correlation between the federal authorities and the Society is clear. Added significance must be given to the fact that a federal employee in the Department of Rehabilitation was one of the original organizers of the Society as shown by its charter fully set forth below. Undoubtedly, John Kratz, Chief, Rehabilitation Division, could shed considerable light upon the parentage of this malformed brain child as well as the identity of the persons who control the Society from behind the scene. We all suspect that an examination of the noble Kratz' cerebrum by a skillful brain surgeon would disclose its embryonic next of kin therein reposing. All facetiousness aside, the blind know full well that no state agency opposing the policies of the Social Security Board will receive any portion of the Society's cut. The political potentialities

of this arrangement are tremendous. It is not enough to publicly disgrace the blind by hanging appropriate signs on these robot panhandlers. Their rapid growth in number will ultimately finance a vast subservient political combination between the Society, the approved State Agencies, the Social Security Board, and the Federal Department of Rehabilitation.

When the Social Security Act is read in its entirety, the criminal provision contained therein becomes most interesting when superimposed upon an analysis of the foregoing. Could it be that its broad terms as set forth below were designed to frighten those who might prod too deeply? Any individual or small organization of the blind seeking detailed information to supplement that which is well known among us will be met with scant courtesy, innumerable dodges and considerable procrastination. We, the independent blind, therefore, are seeking a Congressional investigation into this entire matter in order to forestall the strangling effect of ever-lengthening pseudo-political combines. In addition, Title X of the Social Security Act must either be completely rewritten or thoroughly amended so that the power of the Social Security Board to hamstring state legislatures and existing state agencies will be once and for all eliminated. All we ask is that the blind be given justice as understood by the average American citizen. All they ask is a partial compensation for the heavy burden placed upon them. This must be a matter of right and not one of grace. If this is achieved, the tyranny of the petty bureaucrat will be broken. The blind will have a small income which they may supplement without interference in the giving of a genuine service to society, and as a consequence, they will walk with dignity with the feeling that they are members of the human family rather than an unwelcome adjunct. Only the blind can lead the blind.

It is discouraging to observe how far a flag-waving fence rider can travel and prosper by adroitly donning a cloak of virtue and sympathy at every public occasion. We view it as an enemy within our midst. True patriotism is made of sterner stuff.

Earl Wilcox
Attorney-at-law
Member, Legal Committee of the
National Federation of the Blind

CERTIFICATE OF INCORPORATION

No. 25282

We, the undersigned, all citizens of the United States, and a majority citizens and residents of the District of Columbia, desiring to associate ourselves as a corporation pursuant to the provisions of Title 5 of Chapter 5 of the Code of Law for the District of Columbia, do hereby certify as follows:

First: The name or title by which this corporation shall be known in law shall be "NATIONAL SOCIETY FOR THE BLIND, INCORPORATED."

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Second: The term for which it is organized shall be perpetual.

Third: The particular business and objects of said corporation shall be:

A. To cooperate with existing agencies or such agencies as may hereafter be established in promoting all and every interest of the blind and the partially blind in the United States and to initiate movements for such purpose.

B. To endeavor to secure local, state, and Federal legislation for the welfare of the blind and the partially blind.

C. To establish and maintain, with the necessary personnel and equipment, such bureaus and departments as may be required for its work.

D. To receive and to administer moneys from all sources, whether gifts, commissions, or other income, for the benefit of the blind and the partially blind, for business, for recreational, and for other purposes.

E. The Board of Directors, or its authorized officer, may enter into agreements with individuals, public and private agencies, wherever located, for the purpose of developing and aiding rehabilitation work and services for the blind and the partially blind.

F. To buy, sell, construct, reconstruct, lease, remodel and improve any buildings and other properties for the purpose of carrying out or promoting any of the objects of the corporation.

Fourth: The numbers of its trustees, directors, or managers for the first year of its existence shall be not less than three (3).

In testimony whereof, we have this 20th day of December, 1938, hereunto set our hands and seals.

Address:

622 Nicholson St., N.W.,
Washington, D. C.

J. F. Clunk (Seal)
John Mitchell (Seal)
L. A. Robinson (Seal)

TITLE X OF THE SOCIAL SECURITY ACT: GRANTS TO STATES FOR AID TO THE BLIND

Section 1001. Appropriation: For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind.

Section 1002. State Plans for Aid to the Blind: (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and if administered by

them be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment of designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan--

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

(2) Any citizenship requirement which excludes any citizen of the United States

Section 1004. Operation of State Plans. In the case of any State plan for aid to the blind which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds--

(1) That the plan has been so changed as to impose any residence or citizenship requirement prohibited by Section 1002(b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) That in the administration of the plan there is a failure to comply substantially with any provision required by section 1002(a) to be included in the plan; the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

Section 1006. Definition. When used in this title the term "aid to the blind" means money payments to blind individuals.

TITLE VII---AMENDMENTS TO TITLE X OF THE SOCIAL
SECURITY ACT

Section 702(b). Effective July 1, 1941, section 1002(a) of such Act is further amended by inserting before the period at the end thereof a semicolon and the following new clauses: "(8) provide that the State agency shall, in determining need, take into consideration any other income and resources of an individual claiming aid to the blind; and (9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the blind."

Section 703. Section 1006 of such Act is amended to read as follows: "Sec. 1006. When used in this title the term 'aid to the blind' means money payments to blind individuals who are needy."

TITLE VIII--AMENDMENTS TO TITLE XI OF THE SOCIAL SECURITY ACT

Section 1107. Penalty for Fraud. (a) Whoever, with the intent to defraud any person, shall make or cause to be made any false representation concerning the requirements of this Act, the Federal Insurance Contributions Act, or the Federal Unemployment Tax Act, or any rules or regulations issued thereunder, knowing such representations to be false, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both."

Members should obtain the full text of the Social Security Act and the 1939 Amendments from the Document Room of the House of Representatives, Washington, D. C.

INSECURITY UNDER THE SOCIAL SECURITY ACT

(From Chicago Law Review Volume 9, No. 1
December, 1941)

The Social Security Act (1) was designed to provide safeguards for the "security of the men, women, and children of the Nation." (2) Some of the eleven titles, such as those dealing with unemployment (3) and old age (4) insurance, the Congress saw fit to have administered directly by the federal government. In other instances, however, the Congress left a large area of discretion to the state legislatures. With respect to problems of old age assistance, (5) aid to dependent children, (6) and aid to the blind, (7) the act makes use of the grant-in-aid device; (8) the states receive the federal funds upon conforming to certain conditions. The Social Security Board was established to insure adherence to these stated conditions and may refuse to certify a state plan which does not conform to them. While the conditions as stated do not seem complicated or vague, the board's methods of administering the act have introduced considerable conflict and confusion. State legislators have had difficulty in determining what sort of plans will meet the board's interpretation of these requirements. Plans which seem to meet all the formal conditions have not received the approval of the board. Plans which have received the approval of the board have not been administered in accordance with their terms; through the Board's power to withhold funds, other and inconsistent provisions have been, in practical effect, read into the plans.

The conditions, in the order in which they are stated in the statute, are: 1. the program must be statewide; 2. the state must participate financially; 3. the plan must be supervised or administered by a single state agency; 4. the applicant, denied help locally, must be afforded an opportunity for a fair hearing before the state agency; (9) 5. the state's methods of administration must be proper and efficient and must include a merit system for personnel; (10) 6. the plan must provide for informational reports to the federal board in the form the board requires; (11) 7. the "state agency shall, in determining need, take into consideration any other income and resources of an individual"; (12) 8. information and records regarding recipients and applicants must not be open to the public. (13) In addition, there are three requirements relating to the types of individuals who may be given aid: 1. in plans for the aged, the age requirement cannot be greater than sixty-five; (14) 2. a residence requirement cannot be longer than five years within the last nine, with one year's continuous residence immediately preceding the application; (15) 3. there can be no citizenship requirement which excludes any citizen of the United States. (16)

The public statements of the board give no indication that there should be any great difficulty in interpreting the conditions of the act. Members of the board always say that the power to determine which individuals are in need is left to the

states; they constantly make statements such as: "The Social Security Act lays down minimum requirements" (17) and "states make their own plans." (18) They emphasize that the plan violates none of the traditional notions of states' rights (19) and is little more "than an enabling statute, granting aid to state systems....." (20) The final decision as to who receives aid and as to how much aid shall be given under a plan is left to the states. (21) And in a publication of the Social Security Board in 1940, it is stated that "the State--not the Federal Government--decides who shall get aid and how much shall be paid to each person....each State decides how much property or other resources those it aids may have." (22)

There is considerable discrepancy, however, between these statements of the board and its methods of administration. It is the purpose of this note to consider the grounds upon which the board has disapproved state plans or changed the methods of administering them, and the power of the board under the act to refuse certification or withhold funds on the grounds it does.

FEDERAL BOARD ACTIVITIES IN THE STATES

One source of difficulty has been the question of family responsibility. Many states have, or at one time had, provisions prohibiting deduction of the resources of an applicant's family in determining whether or not he should receive aid. Despite these provisions, family responsibility appears to be a part of the social security system throughout the country. (23) The board has not found it necessary actually to refuse certification of any plan in order to secure this result. The power to withhold funds has been sufficient.

In Missouri, after state appellate courts had interpreted the state statute as meaning that the possibility of help from relatives was not to be regarded as income of the applicant, (24) the state administrator was faced with the alternative of losing federal funds or disobeying the state court order. (25) His dilemma was solved only by an amendment to the state act providing for family responsibility. (26) The state administrator in Washington had much the same experience, (27) and the statute prohibiting family responsibility was changed. (28) The same problem is likely to arise again, however, for under the recently passed Senior Citizens Act, family responsibility is prohibited in certain instances. (29) In Oklahoma, where the statute enacted to comply with the provisions of the Social Security Act contained no reference to family responsibility, (30) that policy is enforced under color of a long-forgotten statute which, when enacted, had no relation to social security. (31) In Texas, under a statute excluding consideration of the ability of children to support an applicant, (32) the same problem has arisen. As stated by a member of Congress from that state, "this item soon became the chief object of the case workers' investigations.....We thought that under this act the State would be the judge of the need of an applicant, but we were to soon find that our own ideas of need had little to do with the actual administration of the program. Ostensibly in the hands of local people our program has been controlled by the interpretations

and investigations of the 'approved' social service consultants which the Social Security Board has forced upon us. And these people have in almost every case taken the unreasonable attitude that no matter how destitute an old person or an old couple might be, that their evident need was no basis of certification to the pension rolls if perchance any child made even a small contribution to their support." (33)

Another conflict between the federal board and the state legislatures concerns legislative directions to state agencies prohibiting them from deducting certain amounts of personal income or certain kinds of resources in determining need. In California, the amount to be disregarded in giving old age assistance was personal income up to \$15 per month and certain other personal resources such as lodging, firewood, water, and garden produce. (34) On March 25, 1941, the Executive Director of the Federal Social Security Board wrote Congressman Voorhis of California that this statute was out of conformity with the Federal Social Security Act, suggesting four alternatives which the state might adopt, each of which gave "due regard to the income and resources of the individual." (35) On April 5, the letter was printed in the California legislative assembly journal; (36) on June 14, the statute was amended, adopting one of the alternatives. (37)

The same problem arose in Minnesota and in Iowa, with regard to aid to the blind. The Minnesota plan, providing for a grant of \$30 per month to all blind persons with less than \$365 per year, was disapproved by the board, but not, it is true, on this ground alone. (38) The similar Iowa statute was amended, apparently at the suggestion of the board. (39)

In many instances, the board has had its own way without the necessity for such open conflicts. The most effective way for the board to secure control, of course, is by means of state legislation giving to the state agency complete power to cooperate with the board. (40) In fact, states have been constantly amending their statutes to this effect in the past few years. The language varies in intensity from "cooperate with the Federal Government in welfare matters of mutual concern," (41) and "cooperate with the federal social security board.... in any reasonable manner which may be necessary to qualify for federal aid," (42) to "act as the agent of the federal government in welfare matters of mutual concern." (43) There is, of course, little evidence as to what part the board has played in securing the insertion of these provisions in the state statutes. (44) Certainly, however, the contrast between the board's statements and its activities relative to the power of the states to determine need indicates that its public utterances may not reveal accurately its position as to the states' power to formulate policy. (45)

The desire for a state agency, free from all controls other than those of the federal board, is further manifested by the board's interpretation of the single agency requirement with reference to judicial review. In Illinois an aged applicant was awarded assistance by the local agency, which determination

was overruled by the state agency. Acting under a statute providing for trial de novo, the circuit court directed the state agency to grant the applicant assistance. Upon the first hearing the Illinois Supreme Court affirmed. Upon rehearing the court held that the statutory right to a trial de novo was a grant of executive power to the courts and hence unconstitutional. (46) The opinion apparently left open, however, the possibility of review of state agency determinations. At some time, either before or after the opinion on rehearing, the Executive Director of the Federal Social Security Board wrote as follows to the Illinois Department of Welfare: "If the effect of this decision is to limit the State agency to purely ministerial activities and to divide the administrative authorities so that there is no longer a single State agency as contemplated by the Social Security Act, it will be necessary for the Social Security Board to consider the continuing conformity of the Illinois plan to the Social Security Act." (47)

STATUTORY JUSTIFICATION FOR THE BOARD'S ACTIVITIES

The question naturally arises whether the board has the power under the act to indulge in this sort of activity. In considering the provisions of the act itself perhaps the most important of the 1939 amendments should first be mentioned. Requirement (7) of Title I, Section 2(a), added at that time, provides that "the state agency shall, in determining need, take into consideration any other income and resources of an individual claiming old age assistance." (48) At the same time, the word "needy" was added in four additional places scattered throughout these public welfare titles. (49) These two elements of the 1939 amendments, in addition to the fact that the act was originally to be for the benefit of needy persons, might seem to give the board power to impose its policy of individual need determination. On closer examination, however, it becomes quite clear that neither the original act nor any of the amendments was intended to empower the board to impose the conditions it does.

These amendments must be interpreted in the light of the original act. (50) As originally provided, the conditions with which the states were required to comply were almost entirely matters of administration rather than of policy. States were to determine questions of policy such as that of need. The preamble to each of the welfare titles (51) states the following purpose: "An act to provide for the general welfare...by enabling the several states to make more adequate provision for aged persons." The same intent is expressed in the enabling portion of each title, where it is stated that the act is "for the purpose of enabling each state to furnish financial assistance, as far as practicable under the conditions in such state...." There is no specific indication that the federal board was to consider any of these problems. There is strong reliance upon the fact that state legislators are more familiar with the peculiar local conditions, and therefore in a far better position to determine the amounts and kinds of need.

The legislative history of the measure lends further weight to this interpretation. (52) In the original report of the

House Committee on Ways and Means it was stated that "a few standards are prescribed which the states must meet to entitle them to Federal aid, but these impose only reasonable conditions and leave the states free of the arbitrary interference from Washington." (53) During the debates, (54) and in answer to specific questions on this point of construction, (55) the pattern remained unchanged. The Chairman of the Senate Finance Committee said when introducing the bill: "It attacks major problems presented by destitution of the aged and blind and of physically handicapped or orphaned children, and seeks to accomplish these purposes through encouragement given the states to meet these problems by state actions." (56) The sponsor of the bill in the senate assured a questioner that the act was intended merely to provide aid to supplement state efforts. (57)

This interpretation is reinforced by a consideration of the specific conditions stated in the act. Of these requirements, the first six are clearly of an administrative nature. A state-wide program, state participation financially, supervision by a single state agency, opportunity for appeal from local to state agency, proper and efficient state administrative methods, filing of reports with the board--all are administrative. (58) It is true that the last three requirements--age, residence, and citizenship (59)--do impose some conditions as to the types of persons who may receive aid. But certainly from these very specific conditions no requirement of conformity to general policy notions of the board can be derived. (60) The board administers the specifically stated conditions; all other policy determinations are left to the states. This is corroborated not only by the language used by the legislators in considering the measure, but also by the fact that they rejected a provision which would have put some policy-determining power in the board. The original bill contained a provision vesting wide discretionary power in the hands of the federal administrator, and the states under his direction were to furnish assistance compatible with "decency and health." Congress struck the provision. (61) The states were not to be told "how much aid shall be given" or "to whom it shall be given." (62)

Furthermore, the Congress rejected the Wagner amendment, which provided "that money payments to any permanently blind individual will be granted in direct proportion to his need; and (that plans shall contain) a definition of need which will meet the approval of the Social Security Board." (63) It was pointed out that this would not only lead to domination by the board but would conflict with the states' power to determine need. (64)

Moreover, the fact that the act nowhere contains a definition of "need" indicates that that matter was left to the states. Other terms, such as "wages," "employment," "employees," "persons," "farm"--key terms under other titles of the act--are precisely set forth. The word "needy" appears frequently in the public welfare titles but is nowhere defined, either before or after the amendments. (65)

If by requirement (7) of Title 1, Section 2(a) (66) Congress had intended that the state legislatures could not direct that certain types of income be disregarded, it might better have been placed along with those other three requirements--age, residence, and citizenship--which have to do with the types of persons who may receive aid. Instead, the section was placed in another subheading along with the group of administrative requirements; what is more, this amendment took place at the same time that two other administrative requirements were placed under the same subhead. To requirement (5) was added a provision for a merit system for personnel, (67) and requirement (8) was inserted, prohibiting use of records outside the agency offices. (68) Requirement (7) itself reaffirms the power of the states to determine need. Specifically, the words are: "The state agency, in determining need, shall...."

Nor is there anything in the legislative history of the amendments to indicate an intention to alter the role of the states as policy-determining bodies. It was positively stated that "what constitutes need is left to states;...the Federal Government does not concern itself with that, but leaves the matter entirely up to the states." (69)

OTHER JUSTIFICATIONS FOR THE BOARD'S POLICY

The board's primary objection to state provisions precluding individual need determination is that there must be an "equitable distribution" of the funds (70) available in the state for public welfare purposes. Leaving aside for the moment the question of the desirability of such a condition, it is rather difficult to see how its imposition can be reconciled with the policy that the states are to determine need. It seems quite clear that when a state provides that certain resources of an individual shall not be deducted it is making a determination as to what persons are in need. For instance, when the California legislature provided that the first \$15 of a person's monthly income should not be deducted from a \$40 grant, it was in effect saying that all persons receiving from nothing to \$15 should be considered as having need for the maximum grant authorized by the statute. (71) Persons receiving more than \$15 should be considered as being in proportionately less need. Likewise, those state legislatures which have prohibited the deduction of the resources of an applicant's family have simply said that a person is in need, even though specified family resources are available. Admitting that the states have the power to make these determinations, it is difficult to see how the board can consistently bring forth the requirement that there be an "equitable" distribution of funds. (72) It is true, of course, that if insufficient funds were available to take care of all whom the state has classified as needy, then as a matter of common fairness, it might be required that all those having no income should receive help first. But it appears that in California there were ample funds to provide for all who had been declared needy. The state had simply indicated that, for reasons to be discussed later, there should be no distinction made between those persons with no income and those who received \$15 a month.

It cannot be argued that these state provisions are improper, on the ground that aid to the aged, aid to the blind, and aid to dependent children should be uniform throughout the country. Congress might, of course, have made such provisions, as it did with regard to other titles of the Social Security Act. But in these public welfare titles, Congress stated only certain minimum conditions as to which there should be uniformity throughout the country. The very fact that other matters were left to the states indicates that uniformity was not expected. (73) Standards of living, notions as to the conditions for granting aid, and the amounts of money available for such purposes all may vary in the different states.

Furthermore, even if these matters did not vary, it would still be desirable to permit experimentation (74) by the states in order to develop better systems of public aid. (75) No one can at this time define the "best" system; but certainly the board's system leaves much to be desired. The board's system smacks strongly of pauper relief, a system which it was hardly the purpose of the act to perpetuate. (76) The "security" (77) and "protection" (78) emphasized during the consideration of the act must mean more than the mere giving of something where nothing had been given before. "Security" and "protection" would seem to take into account the fact that the manner of the giving may be of equal importance with the giving. (79) The general impression was that a dignified form of help would be given under well-defined conditions, eliminating the degradation and humiliation of the former pauper laws. But insistence upon family responsibility and consideration of every item of income of the applicant (looking toward deduction of these items), necessitating minute investigations by case workers into the affairs not only of the applicant but of his family as well, removing the incentive of the individual to do some work on his own and perhaps to rehabilitate himself, and subjecting him to the insecurity of relying on precarious family help--does not lead to a dignified system.

These state attempts, on the other hand, have much to recommend them. Under statutes exactly specifying the conditions and the size of the grant, the case-worker is restricted in the scope of his investigation and lacks discretion as to the amount of aid to be given; all he has to do is to ascertain the amount of the applicant's income and perform the mathematical computation directed by the statute. The individual has greater security, in that inquiries into his more intimate modes of living are eliminated. The recipient can easily check errors of case-workers, and he possesses the means to insure his independence with respect to his conduct and funds. There is security, too, in his knowing that if he does some things for himself, his condition will be bettered--that it will not simply result in a deduction from the state grant. This factor may often be of considerable significance in his rehabilitation. (80)

Again, the policies of some of the states with reference to family responsibility are preferable, for under the board's policy, the investigator must pry into the income of all the family, the conditions of which investigation are uncertain.

10, dealing with aid to the blind, nor under Title 4, providing for aid to children.

15. Tit. 1, Sec. 2(b)(2), 49 Stat. 621 (1935), 42 U.S.C.A. Sec. 302(b)(2)(Supp. 1940). The residence requirement for children, under Title 4, is that they have lived in the state for one year, or have been born during the previous year if the mother resided in the state.

16. Tit. 1, Sec. 2(b)(3), 49 Stat. 621 (1935), 42 U.S.C.A. Sec. 302(b)(2)(Supp. 1940).

17. Address of V. M. Miles, member of the Social Security Board, before Annual Meeting of National Dry Goods Association, New York City, Jan. 21, 1936; consult Social Security Board, Social Security in American 217 (1937).

18. Address of F. S. Bane, Executive Director of Social Security Board, before Conference of Mayors, Washington, D.C., Nov. 17, 1936.

19. Address of F. S. Bane before Public Charities Association of Pennsylvania, Philadelphia, Pa., Jan. 18, 1936.

20. Address of V.M. Miles before the Northeastern Retail Lumber Dealers, New York City, Jan. 29, 1936.

21. Address of V. M. Miles before the Chamber of Commerce, Lynchburg, Va., April 9, 1936: "Each state determines for itself who is eligible for old-age assistance and the amount to be paid monthly to the need aged." Address of A. J. Altmeyer, Chairman of the Social Security Board, before the National Association of Mutual Insurance Companies, Grand Rapids, Mich., Oct. 4, 1937: "In public welfare, this country has had years of experience under state and local laws, and all that the Social Security Act does is to offer federal aid in developing these existing programs." J. B. Tate, General Counsel of the Social Security Board, has written: "One very definite limitation upon the Social Security Board's authority will occur at once. The state agency represents the state government. Without attempting to clarify the muddy waters which engulf most discussions of sovereignty, I may say that the agency represents the state in its sovereign capacity.....These powers have been recognized as including the ultimate right to interpret state legislative policy including specifically, their own statutes. Any treading upon the prerogatives of the state agency gives rise immediately to a conflict between the federal agency and the state agency. They act under distinct laws and have distinct powers of interpretation, decision, and administration....." Tate, Problem of Advice in the Administration of Social Security Laws, 3 Fed. B.A.J. 319, 320 (1939).

22. Social Security Board, What Is Social Security?, at 14, 15 (1940).

23. For a review of state laws and the uniformity of policy in regard to family responsibility in spite of wide differences in

those state laws, consult Hart, Legal Responsibility of Relatives for Care of the Aged, 15 Soc. Serv. Rev. 285 (1941).

24. Price v. State Soc. Security Com'n, 232 Mo. App. 721, 121 S.W. (2d) 298 (1938); Moore v. State Soc. Security Com'n, 233 Mo. App. 536, 122 S.W. (2d) 391 (1938).

25. The Courts and Famil Responsibility, 13 Soc. Serv. Rev. 105, 109 (1939): "...the Social Security Board is an administrative body. It has neither legislative nor judicial powers. The Congress did not define the needy aged as persons without relatives who are willing to give assistance. Can the Social Security Board require the states to make such a definition? We hope the Missouri authorities will ask the United States courts if the administrators of the Social Security Board are not exceeding their authority."

26. Mo. Stat. Ann. (1939) Sec. 9406 (6).

27. Conant v. State, 197 Wash. 21, 84 P. (2d) 378 (1938).

28. Wash. Rev. Stat. Ann. (Remington Supp. 1940) Sec. 10007-117a; The Courts and Family Responsibility, 13 Soc. Serv. Rev. 105, 110 n. 5 (1939).

29. Wash. L. (1941) c. 1, Sec. 3(h)(1).

30. Okla. Stat. (Harlow, Supp. 1940) Sec. 4715221(a),(b).

31. Okla. Stat. (Harlow, Supp. 1938) Sec. 1691.

32. Tex. Stat. (Vernon, Supp. 1941) art. 6243-6.

33. 84 Cong. Rec. 6851 (1939).

34. Calif. Welfare and Institutions Code (Deering, Supp. 1939) Secs. 2020, 3084.

35. California Legislature Fifty-fourth Session Assembly Daily Journal 1595 (April 5, 1941). The choices as set out were: 1) Consideration of all income and resources of the applicant followed by a grant of aid sufficient "to provide him with a reasonable subsistence compatible with health and well being." Under such a provision, awards would be determined on a budgetary basis....considered by the board to be the most satisfactory basis...." 2) Consideration of all income and resources of the applicant followed by a grant of aid which, "when added to the income...of the applicant from all other sources, (equals) forty dollars (\$40) per month..." If the applicant's need is greater than \$40, he may receive aid up to \$40 which, when added to his income, "shall equal his actual need...provided that the same standards of determining his need were applied (as would have been in the case of) a person without any income or resources." 3) Provision that "the amount of aid to which any applicant shall be entitled shall be, when added to the income of the applicant from all other sources, \$40 per month. 4) Provision increasing

the grant to \$55; then instead of ignoring an applicant's first \$15 per month income, investigation of need resulting in a deduction of \$15 from the grant of those who earned it or were given it. Thus those without any income would receive \$55. As the Director said, "This would, no doubt, increase the cost of the programs."

36. Ibid.

37. Calif. Welfare and Institutions Code (Deering, Supp. 1939) Secs. 2020, 3084, amended by Calif. S. 1347, Reg. Sess. (June 14, 1941). In this revision the Executive Director's second alternative was adopted. Note 35 supra.

The act also split the program for aid to the blind into two parts: one administered by the state alone with state funds, the other to meet the requirements for securing federal aid. The first plan retains substantially the same provisions as the one under which the state had formerly been receiving federal aid. The second adopts the suggestions of the Social Security Board, including the methods of investigating need.

38. Orfield, Old Age Assistance: With Special Reference to Nebraska, 17 Neb. L. Bull. 287, 302 (1938). Plans of Illinois, Missouri, Nebraska, and Pennsylvania, with the same provision as this Minnesota plan, have likewise been disapproved.

39. Iowa Acts 170, at Sec. 2 (1941).

40. An example of this type of statute is that enacted in Michigan: "The Commission, with the approval of the governor, shall have power to cooperate with the federal government, or any of its agencies or instrumentalities, in handling the welfare and relief problems and needs of the people of this state, to the extent authorized by the laws of this state. To such end, the commission shall have power to adopt any plan or plans required or desirable to participate in the distribution of federal moneys or the assistance of the federal government, and the commission shall have power to accept on behalf of the State of Michigan any allotment of federal moneys. The commission shall be authorized and empowered to adopt any rules and regulations and enter into any agreement or agreements with local units, or both, to participate in any such plan or plans as said commission may deem desirable for the welfare of the people of this state. For the purpose of assuring full federal approval of the activities of the department and local departments with respect to the operation of any such plan or plans, the commission shall have the power to do all things reasonable and proper to conform with all federal requirements pertaining to methods and standards of administration. In the making of any rules and regulations with respect thereto, there shall be included such methods and standards of administration for the work of local units, including the necessary supervision thereof, as may be required for the receipt of aid from the federal government." Mich. Stat. Ann. (Henderson, Supp. 1941) Sec. 16.410.

41. Ala. Code Ann. (Michie, 1940) tit. 49, Sec. 8(6).
42. Ind. Stat. Ann. (Burns, Supp. 1941) Sec. 52-1104(h).
43. Wyo. Rev. Stat. Ann. (Courtright, Supp. 1940) Sec. 103-1605(h).
44. Ariz. Code Ann. (Bobbs-Merrill, 1939) Sec. 70-206(e); Ark. Dig. Stat. (Pope, Ann. Supp. 1940) 486, at Sec. 7(9); Colo. Stat. Ann. (Michie, 1935) c. 141, Sec. 20(6); Conn. Gen. Stat. (Supp. 1939) Sec. 567e; Fla. Comp. Gen. Laws Ann. (Supp. 1940) Sec. 4139 (2); Ga. L. (1937) 355, at Sec. 6(9); Idaho Code Ann. (Supp. 1940) Sec. 30A-202 (5), (7)-(9); Iowa Code (1939) Sec. 3661.007(2); Kan. Gen. Stat. Ann. (Corrick, Supp. 1939) Sec. 39-708 (a); Me. Acts & Res. (1937) 310, at Sec. 16; Md. Ann. Code (Flack, 1939) art. 70A, Sec. 5(d); Minn. Stat. (Mason, Supp. 1940) Sec. 3199-102(6); Miss. L. (1940) 489, at Sec. 4(e); Mo. Rev. Stat. (1939) Sec. 9399(2); Mont. Rev. Does (Supp. 1939) Sec. 349A. 48(f); Nev. Comp. Laws (Hillyer, Supp. 1938) Sec. 5154.04(e); N. H. Laws (1937) 429, at Sec. 6, vii; N. M. Stat. Ann. (Courtright, Supp. 1938) Sec. 134-2509; N. Y. Social Welfare Law (McKinney, 1941) Sec. 29; R. I. Gen. Laws (1938) c. 59, Sec. 2(e); S. C. Code (Supp. 1938) Sec. 4996-59.
45. Note 21 supra.
46. *Borreson v. Dept. of Pub. Welfare*, 368 Ill. 425, 14 N.E. (2d) 485 (1938), noted in 37 Mich.L.Rev. 639 (1939) and 27 Ill. B.J. 203 (1939).
47. *Schneider, Social Security Act in Operation*, 17 Neb. L. Bull., No. 4, at 145, 148 (1938).
48. Similar changes were made in Titles 4 (aid to dependent children) and 10 (aid to blind).
49. Title 1, Sec. 6; Title 4, Sec. 406(a); Title 10, Secs. 1003, 1006.
50. 1 Sutherland, *Statutory Construction* Secs. 231, 235 (Lewis ed. 1904); Black, *Interpretation of Laws* Secs. 130-34 (1896).
51. Titles 1 (aged), 4 (dependent children), and 10 (blind).
52. On the wide use of such data in the interpretation of statutes, consult Jones, *Extrinsic Aids in the Federal Courts*, 25 Iowa L. Rev. 737 (1940); Sutherland, op. cit. supra note 50, at Secs. 456, 470.
53. H. R. Rep. 615, 74th Cong. 1st Sess. (1935).
54. 79 Cong. Rec. 5780, 5782, 5897 (1935).
55. 79 Cong. Rec. 5474 (1935).
"Mr. McLaughlin. May I inquire how the determination is to be made in the individual case as to the amount which that individual is to obtain?"

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"Mr. Doughton. That will be under State law and will be determined entirely by State law.

"Mr. McLaughlin. Will there be different formulas set up in the different States, or will there be one national formula?

"Mr. Doughton. No; the National Government will not have anything to do with it. The administration of the law is left entirely to the States.

"Mr. McLaughlin. The National Government and none of its agencies or instrumentalities will have anything to say about how much the individual gets in a State?

"Mr. Doughton. Not a word. The State might set up a system that the federal government would not approve, but it will not have the right to say just how much the State should give or not give... They would not have any right to say what amount should be paid. That would be left entirely to the State law."

56. 79 Cong. Rec. 9267 (1935).

57. 79 Cong. Rec. 9426 (1935).

58. Notes 9-11 *supra*.

59. Notes 14-16 *supra*.

60. Consult Sutherland, *op. cit. supra* note 50, at Sec.422.

61. 79 Cong. Rec. 11321 (1935).

62. For discussion of the significance of the refusal to accept this amendment, consult Douglas, *Social Security in the United States* 86 (1936); Burns, *Toward Social Security* 41 (1936). Senator Harrison urged that a federal minimum for recipients was undesirable because the state is to determine who is to get aid and how much it will give. 79 Cong. Rec. 9441 (1935). An amendment offered by Senator Rorah, requiring that a state's receiving aid be based on the state's granting a \$30 minimum pension, was defeated. 79 Cong. Rec. 9634 (1935).

63. 79 Cong. Rec. 9367 (1935) (*italics added*).

64. *Ibid.*, at 11327--28.

65. Sutherland, *op. cit. supra* note 50, at Sec. 358: "Where the law-maker declares its own intention in the enactment of a particular law, or defines the sense of the words it employs in a statute, it not only exercises its legislative power, but exercises it with a plausible aim; for it professes to furnish aid to a correct understanding of its intention..." Black, *op. cit. supra* note 50, at Sec. 75: "...particular words and phrases employed, are not to be considered in themselves alone...but they are to be interpreted with reference to the language surrounding and accompanying them,--the context..."

The terms defined are those more easily standardized than "need." The absence of a standard in the presence of strong indications that the state may determine need reasonably lead to the belief that the state may set its own standard.

66. Note 12 supra.

67. Tit. 1, Sec. 2(a)(5), 49 Stat. 620 (1935), amended by 53 Stat. 1360 (1939), 42 U.S.C.A. Sec. 302(a)(5) (Supp. 1940). A state plan must "provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Board to be necessary for the proper and efficient operation of the plan."

68. Note 13 supra.

69. 84 Cong. Rec. 6704 (1939). The debate is reported as follows: "Mr. Duncan...We have the most unusual problems in this Nation of any nation in all the world when it comes to dealing with social problems of this kind. There is just as much difference between the social, economic, and climatic conditions in Maine or northern New York or Wisconsin and those in New Mexico or Texas or California as if they were in different countries. In one section of this country the people have to dress differently than in others. They have to build against the cold; they have to buy every particle of food they eat, and it comes from some other section of the country. In other sections the people grow five or six garden crops a year and grow different types of crops. They do not have cold temperatures to contend with...It is true there is written into this bill a provision that in determining the eligibility of an applicant there shall be taken into consideration the income of the applicant, but, after all, it is up to the State to determine it, and I know that it has been discussed in the Ways and Means Committee time after time. It was discussed 5 years ago and agreed by every man on the committee that it was not absolutely necessary to be in want in order to have an old-age pension. You might have a piece of property, you might have a house and yet be eligible for an old-age pension...

"Mr. Brewster. You do understand then, that in its administration if any State chooses to allow a man to have a home and then a pension in addition the Federal administration will not object?

"Mr. McCormack. As a matter of fact, under the law, what constitutes need is left to the States; in other words, the Federal Government, by the Social Security Act, does not undertake to say to any State what constitutes need. For example, one State might exempt the equity in a house up to \$2000, another one \$3000, while another State might say, 'No; we will allow no equity.' The Federal Government does not concern itself with that, but leaves the matter entirely up to the States.

"Mr. Brewster. Would there be any limits imposed? Suppose they gave one to John D. Rockefeller.

"Mr. McCormack. Of course, there would be a limit.

"Mr. Brewster. What is the limit?

"Mr. McCormack. This money comes out of public funds, and one of the basic requirements is need, but what is need is a question of fact for the State to determine. Of course, there are cases where it clearly goes beyond need, but so far as the Federal Government is concerned the question of need is left to the State in a very flexible manner."

70. O. M. Powell, Executive Director, Social Security Board, in an Interoffice Communication to W. C. Coy, Assistant Administrator (Dec. 12, 1940), stated that the Board does not attempt "to define need." He admitted, however, that the Board does insist upon an individual investigation of need to "do substantial justice to...individuals....This requirement does not mean that the State agency must limit its awards to persons who are in dire poverty." Nevertheless this statement does indicate that an individual determination of need is made by someone who necessarily exercises discretion.

71. Norton, Old Age and the Social Security Act of 1935, at 1-15 (1937).

72. Letter from O. M. Powell, Executive Director, Social Security Board, to all State agencies administering approved public assistance plans, Social Security Board File No. 15: OD: "Such restrictions or limitations are not recommended since they operate to establish a presumption of need in favor of applicants who may not in fact be in need while also excluding others who may be needy without allowing a full consideration of their requirements." Such language cannot be easily reconciled with statements that the state determines need. Note 21 supra.

73. Address of A. J. Altmeyer, Chairman of the Federal Social Security Board, before the National Association of Mutual Insurance Companies, Grand Rapids, Mich., Oct. 4, 1937: "In public welfare, this country has had years of experience under state and local laws, and all that the Social Security Act does is to offer federal aid in developing these existing programs."

74. Frances Perkins, in Hearings, note 2 supra, at 185: "I cannot recommend to you too sincerely the desirability of allowing the States some freedom to find their own way, to use their own particular genius in these particular problems." Dodd, The Decreasing Importance of State Lines, 27 A.B.A.J. 78, 84 (1941): "With respect to national prohibition, the gain in a uniform standard and in national enforcement was more than offset by inefficient national administration and by the loss of a sense of responsibility upon the part of the state and local governments. May we not expect a similar result with a nationally dominated social security program?...Had we, thirty years ago, placed the administration of workmen's compensation under the control of the national government, conditions might have been worse than they have been. The transfer of control to the national government may in many cases cause loss rather than gain in the

achievement of the objective of better social and industrial organization."

75. Ballantine, Grants in Aid--Possibilities and Problems, 6 Legal Notes on Local Gov't 11, 16 (1940): "Governors and Mayors must not become primarily supplicants at Washington, but must remain vigorously constructive in working out their own problems."

76. Burns, Toward Social Security 42 (1936): "In this respect the old-age pension is not a great deal better than the security given under the public welfare laws. It carries with it a strong tinge of charity and at least some of the stigma of the poor law."

77. Hearings, note 2 supra, at 3.

78. Hearings, note 2 supra, at 10.

79. Burns, Toward Social Security, 42-43 (1936).

80. Irwin and McKay, The Social Security Act and the Blind, 3 Law & Contemp. Prob. 278 (1936): "...if the result of this federal aid is to discourage the blind from efforts to be self-supporting, to deter employers from employing capable blind persons and to produce in the minds of the seeing people the false impression that 'the blind are now taken care of,' the Act will do more harm than good."

81. Abbott, Poor Law and Family Responsibility, 12 Soc. Serv. Rev. 598, 618 (1938): "If the poor laws are to be written in the light of modern social welfare theories, any attempt to enforce by legal machinery the responsibility of relatives, one of the surviving provisions of the sixteenth century poor law system, should be completely abolished." It is also significant that the Twentieth Century Fund, Committee on Old Age Security, has urged that all states abolish family responsibility and disregard the first \$15 per month income of the aged. Schneider, More Security for Old Age 113 (1937), criticized by Witte, More Security for Old Age, 12 Soc. Serv. Rev. 34, 37 (1938) (emphasizing the revenue problem).

82. 4 & 5 Geo. VI, c. 11 (1941), Law Times 5 (Sept. 13, 1941); Owen, The End of the Household Means Test in Great Britain, 43 Internat'l Lab. Rev. 627 (1941).

83. Owen, op. cit. supra note 82.

Mr. President, Ladies and Gentlemen:

For several years last past what we call "pensions for the blind", that is a governmental grant of a sum of money each month, has been and still is the principal subject of interest to the blind. Strictly speaking the word "pension" means an additional payment for past services rendered and is not quite accurate in describing aid to the blind. However the term is so generally applied to old age assistance and aid to the blind that we may accept it and continue to speak of pensions for the blind.

I think you will all agree with me that a pension or regular monetary grant to the blind should meet these four objectives:

First it must be sufficient to relieve its recipients from the distress of poverty. So far no pension for the blind has enabled its recipients to establish or maintain what is regarded as a decent American standard of living. We must continue to ask for increases in the grants whenever any reasonable hope of success is to be apprehended.

The second objective of any such pension must be to maintain or restore the self-respect and individual integrity of its recipients. I cannot over-emphasize the importance of this. "Man shall not live by bread alone"--assuredly he cannot when that bread is embittered by a humiliating inquiry into his personal life and an assumption of superiority by the administrators of the aid.

The third objective must be to enlarge the economic opportunities of the blind. Labor, like mercy, is "twice blessed"--it blesseth him who labors and the society which receives the product of his labor. Idleness is as great a curse to the blind--at least to the young and the middle-aged--as want itself.

The fourth objective must be to stimulate the blind to become self-supporting. The hope of economic rehabilitation must be at the bottom of any plan for the improvement of the blind. Experience has shown that no inconsiderable number of blind men and women who have received regular public aid have been able to become completely self-supporting members of their communities.

With these objectives in view we may consider the various pension systems which have been adopted or proposed. The first and simplest pension system would be a flat monthly grant to every blind man and woman, irrespective of his or her resources and income. Census statistics, local service, and personal observations indicate that the number of blind men and women who are able to maintain a fair standard of living from their own resources or earnings is small, and the grants to such persons might very nearly be made up by the savings in administrative cost. Even the self-supporting blind person has expenses which his sighted competitor is not required to meet. As the economic handicap falls upon practically all, why should not all be entitled to public assistance? A parallel case may be found in the history of public education. There was a time when free schooling was available only to the

children of parents who could prove that they were unable to pay his education. The great champions of the American free school system saw the injustice and social degradation of such a system. Horace Mann devoted his life to its destruction. Only the other day I came across a statement of Thaddeus Stevens on this subject. He said that the system which provides free education only for those who wear the badge of poverty is an insult to the rich and a degradation to the poor. Is there any great difference between lessening the burdens of a handicapped class and educating the children of a nation?

Second. The system of individual budgeting may perhaps be classed at the other extreme among pension plans for the blind. It seems to find its champions among certain groups of professional social workers. There is reason to believe that their type of thinking is disappearing as modern principles of public assistance are developed. The champions of this plan insist upon a microscopic examination of the individual resources and the individual needs of every applicant and every recipient of public aid and then upon a grant to each individual in accordance with what the administrator believes to be the need of such individual after deducting his income from whatever source including the value of his resources. Putting aside inevitable doubts as to the omniscience of the social workers who must administer the details of such a plan we find it particularly ill-suited to the needs of the blind. There comes to mind the words of a poet, "Organized charity, scrimped and iced, served in the name of a narrow, statistical Christ." The postman who brings the monthly check to the recipient of aid places in the hands of the blind man or woman not merely so many dollars--not merely the wherewithal to purchase so much food and shelter and comfort--but the very essence of life itself. Explain it as you like. If unsoured by humiliating inquiries, if not embittered by humiliating supervision, sweetness and light, dignity and self respect come with that check. He too--the blind recipient of that check, like his friends and neighbors--faces the great joyous problem of living, the joyous ordering of one's life within one's means. The effect of the system of aid based upon individual budgeting is to destroy all this, utterly.

The third system of pensions for the blind is a flat monthly grant deducting, however, all earnings and other income and the value of the use of all resources. The system was originally initiated for the administration of temporary outdoor relief to the indigent. When applied to the blind its effect is deadening. Accumulated savings become a hinderence rather than a help. The fruits of one's labor avail him nothing. Every cent he earns is taken from him. Rare, indeed, must he be who would turn his hand to labor in such a barren field. This system dooms its beneficiaries to the horrors of eternal idleness.

The fourth system, one which obtains in some of our states, allows an automatic exemption of earnings up to a certain sum before deductions from the aid are considered. For example, in California under a chapter of our aid law--aid to which the federal government makes no contributions--the recipient is allowed to retain up to

\$400 a year from his earnings before any deduction is made from his \$50 monthly grant. This system goes far in removing the curse of idleness, enlarging economic opportunities and destroying the terrible curse of defeatism, but it has serious limitations.

And this brings us naturally to our fifth alternative,--what I may call the flat grant with sliding scale deductions. It is proposed that when the recipients earnings reach the maximum exemption allowed under the present plan, deductions be made on a slide scale. For instance, let us imagine a grant of \$600 a year with no deductions for the first \$400 of earnings. The recipient may attain an income of \$1000 a year. On the next \$400 or less of annual earnings a fifty per cent deduction is made. If an individual earns \$800, for instance, one-half of the last \$400 is deducted and his actual income is \$1200. On the next \$400 of his earnings seventy-five per cent is deducted so that when his employer pays him \$1200 a year his actual income is \$1300. On the next \$125 of his earnings eighty per cent would be deducted. When his earnings reach \$1325 the entire \$600 which he formerly received from the Government would be deducted and his earnings and his income would be exactly equal and he would have become fully independent and self-supporting. The figures which I have given are presented for illustration only. They may be varied up or down.

Under all other plans except the flat grant to all blind persons without respect to private resources or income a point is reached where one cannot increase his income and where all future earnings would be confiscated by the government. Kipling tells us of a distant star where "all" work "for the joy of working" but few indeed can be expected to avail themselves of that joy in this mundane sphere. Under present pension systems the blind worker may sooner or later find himself faced with the choice between failing to produce further or delivering himself into a condition of unrequited labor. It would seem that this impasse can be broken only by some sort of sliding scale of exemptions. Something like this system of flat grants with sliding scale deductions from additional earnings would seem most accurately to meet the four objectives of a system of aid to the blind which I have enumerated.

There are now before the Congress of the United States two sets of bills dealing with aid to the blind. Senate bill 869 proposes to establish what we may call a national pension system for the blind. The bill provides for a flat grant of \$600 per annum payable in monthly installments and allows an exemption of earnings up to \$600 per annum. Provisions are inserted to insure the greatest measure of independence on the part of the recipients consistent with maintaining the principles of the grant above noted. House bill 4042 and the identical Senate Bill 1149, House bill 4286 and House bill 2838 seek to amend the Social Security Act. They would permit the states to fix the amount of assets which a recipient might possess without affecting his grant and they would permit the states to determine what earnings a recipient might retain without resulting in any deduction of his aid.

Opinions will differ as to the advisability of changing from the present system of grants in aid to the states to a completely

federal system of aid to the blind. It seems fairly safe to say that so long as Congress is preoccupied with the war we cannot expect a radical change in the system of aid to the blind nor any substantial increase in federal expenditures for this purpose. For the near future, at least, it would seem that we can hope for nothing more than to amend the present Social Security Act. These amendments must be worked out by compromise between the representatives of the blind, the Social Security authorities, and the Congress. How much we can secure can be ascertained by those who make a point of keeping in close touch with members of the Congress. The selection of language and provisions calculated to secure desired independence is a technical matter. Little, I think, would be gained by a detailed analysis of the various proposed measures before this gathering. You will find the bills accurately discussed in the "All Story Braille Magazine."

In general I think you will all agree with the objectives which I have stated and I do not doubt but that most of you will find my evaluation of the several pension plans fairly satisfactory. I trust that we shall find fundamentals upon which we can unanimously agree; that through correspondence and discussion we can determine the merits of various plans; and that we shall be able to select competent officers and committees who will work out the details in view of actual conditions in Washington and the technical requirements of the legislative process; and finally that, confident of these things, you and all of the forward-looking blind throughout the United States will cooperate with your officers in presenting the facts to the members of Congress.

Law Offices of:

R. W. Henderson
108 Morgan Building
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August 26, 1942

Honorable Culbert L. Olson
Governor of California
The Capitol
Sacramento, California

Your Excellency:

It has been stated in the press that when you were in Washington recently you consulted with the Federal Social Security authorities with the view of permitting recipients of old age assistance to work in the harvest without having their earnings deducted from their aid. We understand that the Social Security people in Washington explained that this could not be permitted unless a system of individual budgeting was set up so that each case could be considered separately. This insistence upon individual budgeting has characterized the action of the Social Security officials in Washington from the beginning.

It was quite apparent when, in 1941, they required this state to abandon the more liberal features of its policy of aiding the blind and the aged. The establishment of such a system in this state would not, of course, encourage our senior citizens to assist in the harvest. It is difficult to escape the conclusion that these federal authorities consider individual budgeting more important than increasing manpower to aid in our great national effort to defeat the totalitarian powers. The iniquity of the system of individual budgeting in the field of public assistance is not realized by a good many well intentioned but loose-thinking individuals.

I want to take this opportunity to point out the evils of individual budgeting. I shall consider it primarily from the point of view of the blind.

During the past several years a large number of our senior citizens in this county have honored me by consulting me with regard to their relief problems. However as a blind man, as chief counsel for the California Council for the Blind, and as executive director of the National Federation of the Blind I have studied the problem more thoroughly with relation to that class. Much of what I shall say will, however, be applicable to our senior citizens.

At the very outset we must get it out of our minds that there is something peculiar and exceptional about public aid to the aged and to the blind. Assistance to the unfortunate is as old as humanity and its recognition as a community obligation has characterized American life from the earliest days. The idea

that such assistance should be measured out with a niggard hand and that it should be accompanied with personal inquisition into all the details of the life of the person assisted is a recent development of a certain school of so-called "social workers." When the pioneers of a community gathered to raise a barn for a new settler they did not sit down and estimate the number of "critters" that he should keep nor did they count the shocks of fodder or measure his hay. Our American free public school system extends its benefits to the poor as well as to the rich. It has never been thought that our minimum wage laws and our maximum hour laws should be applied with consideration for the individual needs of each worker. Our tariff system was established for the "protection" of our manufacturers and yet it was never thought that each manufacturer should receive protection in accordance with his individual needs. The various forms of farm aid are extended according to general standard. The rich corporation as well as the indigent farmer is given the benefit of land bank loans, intermediate crop loans, parity payments and soil conservation payments. It is strange, indeed, that the idea of personal inquisition and aid according to individual need should somehow have been invented when this American principle of community assistance to unfortunate classes came to be applied to the aged and to the blind--the most pathetically needy of all our citizens.

In the case of the blind there are peculiar objections to this individual system. Since the days of Homer the idea of blindness has been associated with mendicancy. "Seven cities fought for the body of Homer dead, through which the living Homer begged his bread." You will find the same thought recurring in the Scriptures. Aid to the blind, if it is to serve its purpose, must be completely segregated from any thought of alms. It is not easy for the blind to realize that they are not receiving alms when the social worker insists upon a detailed statement of all of the intimate matters of their lives and when aid is denied if the social worker can find some relative is what they call "legally responsible".

I think you must agree with me that the adventure and satisfaction of living consists very largely in adapting one's scheme of life to one's means. In the ordinary family the husband's business is to increase the family income. The wife's business is to find the most satisfactory way of life within the income which is thus obtained. Now this very business of scheming and planning and adapting one's life within an income is itself part of the satisfaction of life. Take this away from the aged and the blind, tell them how much they must spend for rent, how much for food, how much for clothing, how much for other things and you have insulted them and you have taken away from them an essential part of the very satisfaction of being alive. That would be true, even if your social workers were competent to make such determination. Your social workers are no more experienced, no more competent, than the people whose affairs they undertake to regulate. Indeed, in the very nature of things they are less experienced and less competent.

In June I attended the convention of the National Federation of the Blind. There were nearly 150 blind men and women there. They came from seventeen states. They had been selected and sent there by their fellow blind. (2) They were a cross section of the

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more intelligent and energetic blind men and women of this country. Now, I very distinctly got the impression that in many states the blind are more bitter about the administration of their aid than they are about its amount. They find it hard to adjust themselves to the very meager pittances which are granted to them in several of the states but they feel the arbitrariness of the administrators harder to bear than the meagerness of their income. They live in perpetual fear that for some reason or other the social workers will reduce or completely discontinue their aid. Under this system of individual budgeting the social worker becomes a tyrant holding the happiness--almost the lives--of their so called "clients" in their hands.

I don't think that most people are lazy. They are willing to work but the Federal Social Security authorities insist that any earnings of aged or blind recipients of aid must be deducted from such aid. They insist that these unfortunate people must be penalized for any effort they make. That it is the right of the state to take from them any earnings which they may achieve. They are given their choice between idleness and unrequited toil. In the case of the aged and of the blind who do not hope for economic rehabilitation this attitude is deadening. In the case of blind who are struggling toward achieving self-support and getting themselves out of the class of recipients of aid this attitude might almost be classed as murderous.

A year and a half ago these federal authorities said to California, "If you persist in your policy of using aid to assist the blind in rehabilitation federal funds will be cut off," and the state was required to assume the full burden of assisting the blind who are partially self-supporting. Now it appears that the same federal authorities say, "If those of our senior citizens who are able to render some assistance in our great national effort earn any money a system of rigid accounting must be set up and the social worker must be given the arbitrary power to determine in each individual case what aid such workers shall receive. "

Now I think it must be clear that this attitude of the federal authorities is utterly inconsistent with time-honored American practices of neighborliness and humanity and that its application tends to reduce the blind and the aged to a condition of pauperism; that it destroys the hope of these classes; that it sets up a vast hoard of petty arbitrary dictators, and that it discourages labor at a time when we are all called upon to labor for our national welfare.

I am wondering, and we are all wondering, whether the State of California is not paying a tremendous price for the grant it is receiving from the federal authorities. Whether we are not selling our birthright for a mess of pottage.

You, Governor Olson, have repeatedly expressed your interest in the problem of our senior citizens and you have shown a considerable measure of understanding of the problems of the blind. Again and again the efforts of this State have been thwarted by the arbitrary bureaucracy of the Social Security authorities in Washington. The blind of the country bitterly resent the atti-

tude of these people in Washington. Have we not a right to expect that humane and progressive citizens and public officials join with us in curing this system?

Yours truly,

R. W. Henderson

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WHAT IS PUBLIC ASSISTANCE

By: .

R. W. Henderson

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I have just read a fat book edited by the Dean of America's leading school for social service workers. It is entitled "Public Assistance." It deals with what is usually called social service. That is, the treatment of the aged, the blind, the indigent, the sick, and the otherwise individually unfortunate. The Social Welfare Department of my state puts out occasionally a publication full of graphs and charts called "public assistance." It, too, deals with aid to the aged, to the blind, orphans and others. The "social service workers" have sort of patented this phrase "public assistance" as a modern and liberal term used to describe aid mostly financial to the classes above enumerated.

The idea of public assistance isn't new and it isn't limited to any particular field of activities. When our grandfathers' neighbors gathered at a barn raising that was public assistance. Decent civilized people haven't been engaged in much of anything else.

As to governmental assistance in this country Alexander Hamilton started it. He said because of certain conditions American manufacturers cannot compete with European manufacturers. American manufacturers need protection. American manufacturers need public assistance. And so he and the manufacturers and the republican party and all the good people ever since have insisted that with regard to certain products we must pay taxes on foreign importation to protect and assist American manufacturers. That was protection; that was public assistance; that, if you please, was relief.

Then there is the matter of schools. In the days of the founding fathers the people who could afford it paid for the education of their children from the grammar school right up through the college. Thomas Jefferson thought that the poor should be educated free and the bright poor boys should be given free college education. Then Horace Mann and Thaddeus Stevens, educators and trade unionists, and a lot of other sensible people saw that if you were going to give free schooling to the poor people you ought to give free schooling to the rich people also. If you are going to assist the poor you ought to assist the rich.

In the last few years the farmers have come in for their bit of public assistance. They said, as compared with manufacturers and those engaged in commercial enterprises, the farmer is underpaid. If he is to be paid on an equality with other people something must be done for him and so the Congress established what are called parity payments and crop conservation payments. They handed out tax payers' money to the farmers. They didn't ask whether the individual farmer needed parity payments or needed soil conservation payments, they just gave him the pay-

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ments on the behalf of the amount of land he devoted to certain crops.

In the struggle for life all of these people, the employers and the children and the farmers, were found to be handicapped. The Government said that under our system of equal opportunities and a fair chance for all these handicapped people must be given some assistance. The Government didn't go looking around into individual cases. It didn't inquire into individual need. It didn't make individual budgets. When, however, it came to help the old and the blind a different procedure was adopted. They had to show their individual need. They had to work out an individual budget under the supervision of some smart young woman just out of a social service school. Nobody is ashamed of sending his children to public school. The farmer doesn't blush when he receives his parity payments and his crop conservation payments. The manufacturers, the farmers, they get together. They organize. They demand these things. The time has come when the blind must remember that they are simply a class asking for the same consideration from society which other classes receive.

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